

Staff Report



To	Committee of the Whole
Service Area	Corporate Services
Date	Tuesday, April 4, 2023
Subject	Updated Delegation of Authority and Document Execution By-laws

Recommendation

1. That the revised Delegation of Authority By-law, included as Attachment-1 to the Updated Delegation of Authority and Document Execution By-laws report, dated April 4, 2023, be approved and that the Delegation of Authority By-law Number (2013)-19529 and Execution of Documents By-law Number (2013)-19635 be repealed.
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Executive Summary

Purpose of Report

This report is intended to seek Council's approval of predominantly administrative updates to the Delegation of Authority By-law. The existing Delegation of Authority By-law has become cumbersome to administer. Staff are recommending the approval of a revised by-law, which streamlines existing delegations. The proposed Delegation of Authority By-law does not add net new delegations or delete existing delegations but, instead, combines the Delegation of Authority By-law and Execution of Documents By-law, streamlining the two documents into one to create a more user-friendly document for the public, Council, and staff.

Key Findings

The following are key findings for consideration with respect to this report:

- This report outlines the opportunities and challenges that led staff to conduct a review of the Delegation of Authority By-law Number (2013)-19529 and the Execution of Documents By-law Number (2013) – 19635.
- Establishing consistency and alignment with the two By-laws is imperative for the City in administering City processes and ensuring appropriate levels of accountability and transparency. The two By-laws were reviewed for consistency and alignment and have been formatted into a single, functional By-law.
- Administrative updates were made to existing delegations of authority to add efficiency or allow for improved operationalization of the delegated authority.
- Where identified by City departments, the revised By-law now includes authorities delegated to staff through various past Council resolutions but not formally captured in the former version of the Delegation of Authority

By-law. This is intended to offer a more complete By-law, which captures the authority delegated by Council.

- Only current delegations of authority that have already been granted previous authority from Council have been included.

Strategic Plan Alignment

This report and the associated recommendations support the Working Together for our Future pillar of the Guelph. Future Ready Strategic Plan. Specifically, a revised and renewed Delegation of Authority By-law contributes to an effective, fiscally responsible and trusted local government with engaged, skilled and collaborative employees. This revised and renewed By-law ensures that City staff have clear direction and delegation of Council authority provided to them in order to support improved front-line customer service and communication. Clear and proper delegation of authority from Council also contributes to the efficiency and effectiveness of Council's time and supports the corporate value of integrity, by ensuring that actions taken under delegated authority are reported publicly and transparently.

Financial Implications

There are no direct financial implications related to the recommendations of this staff report.

Report

Background

Subsection 23.1(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended (the "Act"), provides municipalities with the ability to delegate powers and duties under that or any other Act to individuals or bodies. Subject to certain restrictions, Council may decide which matters require Council's direct attention, which matters require Council's input and direction, and which matters require limited or no direct Council involvement. This provides the municipality with control over the way it administers its own affairs, while ensuring that minor or routine matters are dealt with in the most efficient and effective manner.

Subsection 23.3(1) of the Act sets out the powers that cannot be delegated by a municipal Council, including:

- The power to appoint or remove from office an officer of the municipality whose appointment is required by the Act. These positions include, for example, the City Treasurer, City Clerk, and the Chief Building Official.
- The power to pass a by-law under section 400.1 and Parts VIII, IX, IX.1 and X. These sections and Parts of the Act relate predominantly to taxation.
- The power to incorporate corporations in accordance with section 203.
- The power to adopt an official plan or an amendment to an official plan under the Planning Act.
- The power to pass a zoning by-law under the Planning Act, except as provided under section 39.2 of that Act.
- The powers to pass a by-law under subsections 108(1) and (2) and 110(3), (6) and (7). These sections relate to the passage of by-laws related to small business supports.

- The power to adopt a community improvement plan under section 28 of the Planning Act, if the plan includes provisions that authorize the exercise of any power under subsection 28(6) or (7) of that Act under section 365.1 of the Act.
- The power to adopt or amend the budget of the municipality.
- Any other power or duty that may be prescribed.

Delegation of authority is a common practice and enables municipal Councils to streamline their decision-making by focusing more on their strategic role and less on operational, administrative, and transactional matters. The current version of the Delegation of Authority By-law represents a consolidation, which resulted from a comprehensive review conducted in 2013, following which [By-law Number \(2013\) - 19529](#) was enacted. Additional schedules containing the delegated authority to staff have continued to be added to the current office consolidation.

Subsection 23.1(2) of the Act sets out the following general rules, which apply to a by-law delegating any of a municipality's powers and duties:

- A delegation may be revoked at any time without notice, unless the delegation by-law specifically limits the municipality's power to revoke the delegation.
- A delegation shall not limit the right to revoke the delegation beyond the term of the council that made the delegation.
- A delegation may provide that only the delegate can exercise the delegated power or that both the municipality and the delegate can exercise the power.
- A delegation or deemed delegation of a duty results in the duty being a joint duty of the municipality and the delegate.
- A delegation may be made subject to such conditions and limits that the council of a municipality considers appropriate.
- Where power is delegated, the power is deemed subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeals which apply to the power and any duties related to the power are deemed to be delegated with the power.

A review of the Delegation of Authority By-law to ensure its alignment with strategic and operational requirements, as well as to ensure an efficient and effective government structure, was identified as an opportunity by way of the [KPMG Service Rationalization Review conducted in 2021](#). Beginning in 2020, a review of the City's Delegation of Authority By-law was undertaken, with the goal of making the By-law more user-friendly and providing clarity for Council, staff, and the public. Over time, opportunities and challenges have been identified, which have also led staff to undertake a review. The current By-law has multiple schedules that, at times, lack clarity around which staff group or person the delegation applies to. Staff have reviewed existing delegations in both the Delegation of Authority By-law Number (2013) – 19529 and the Execution of Documents By-law Number (2013) - 19635. Establishing consistency and alignment with the two documents is crucial for the City in not only administering City processes but also ensuring appropriate levels of accountability and transparency are maintained.

Delegation of authority is an opportunity for a municipal Council to streamline municipal decision-making and improve and enhance service delivery. Effective

delegation by-laws establish clear lines of accountability and communication between Council and the delegate. While streamlining decision-making is important, it can be a challenge for municipal Councils to develop delegation by-laws that serve both Council and the delegated person or body effectively.

The proposed revised Delegation of Authority By-law includes accurate language and has been formatted into a functional schedule to improve customer service and readability. It clearly articulates the expectation and limitations/conditions to be exercised for delegation of authority and governing the execution of documents. Delegations of authority that are not part of current practice and have not been granted previous authority from Council were not in-scope for this review.

Attachment 1 – Schedule A – Delegation of Powers and Duties is a consolidation of the various schedules in both the current Delegation of Authority By-Law (2013)-19529 and Execution of Documents By-Law Number (2013)- 19635, it includes a numbered column to reference the current sections of those bylaws. The revised Schedule A - Delegation of Power and Duties will not include the reference column but will include sequential numbering for ease of navigation and reference.

Additional delegations requested by departments will be brought forward to Council in the form of proposed amendments to this revised By-law, and will be implemented by individual departments, in consultation with the City Clerk's Office, the Legal, Realty and Court Services Department, and the Executive Team.

Existing Delegations of Authority

The review revealed that the current Delegation of Authority By-law Number (2013) – 19529 is difficult to understand, inconsistent with other by-laws across the City, and does not reflect current practices and the structure of the organization.

The following concerns were raised during the review of the existing By-law:

- The By-law is long and has many appendixes, making it difficult to navigate.
- The By-law is dispersed over two main documents, being the Delegation of Authority By-law Number (2013) – 19529 and the Execution of Documents By-law Number (2013)- 19635, and several secondary documents.
- The two main documents that make up the current Delegation of Authority By-law are, in some places, contradictory.
- The By-law is overly specific with non-defined aspects falling between the defined categories.
- There is a lack of clarity about who has authority to sign documents and a need for a clear document execution process.
- The By-law does not currently organize the list of delegations in a way that can be easily understood.
- The By-law includes some outdated language and does not reflect current portfolios across the organization.

Revised Delegations of Authority

The proposed changes incorporated in the revised By-law include the following:

- Combined Delegation of Authority By-law and Execution Documents By-law.
- Schedule "A" is in a table format, making it easier to navigate and understand.

- The revised By-law includes accurate legislative references, outlines limitations and reporting requirements articulating the expectation and conditions to be exercised for each authority.
- The table format resembles the same format many other municipalities have chosen to implement their delegations of authority and is divided by department.
- Current schedules from the existing Delegation of Authority By-law that were lengthy and included several parts have been separated for ease of use.
- Administrative updates to existing delegations of authority that add efficiency or allow for improved operationalization of the delegated authority.
- Where identified by City departments, the revised By-law now includes authorities delegated to staff through various past Council resolutions but not formally captured in the former version of the Delegation of Authority By-law.
- Only delegations of authority that are part of current practice and have been granted previous authority from Council have been included.

The efficient management of the City and the need to respond to issues in a timely manner requires the delegation of certain powers and authority to staff while maintaining accountability and transparency. This can be accomplished through the delegation of certain legislative functions. The revised Delegation of Authority By-law clearly articulates the expectations, limitations, reporting and conditions to be exercised for each authority in a new and streamlined format. It will contribute to a more efficient, effective and continued transparent decision-making process that will enable Council to focus on its strategic role.

Financial Implications

There are no direct financial implications related to the recommendations of this staff report. Properly documented and executed delegations of Council's authority can, at times, reduce administrative costs on customers, residents and businesses. Any exercise of delegated authority by staff is contemplated within the context of the City's existing and approved budgets.

Consultations

To promote accountable and transparent municipal governance, guided by simple, open, and transparent decision making, engagement and communication with staff and Council is critical. It is important that staff who have delegated authority are fully aware of their responsibilities. Ensuring effective communication to ensure the process and method are maintained, controlled, monitored, and reported, are key success factors. If approved, staff will be made aware of the revised By-law. Staff from across the organization were involved in consultations and reviewed the revised By-law, and the City's Executive Team reviewed, provided comments and consideration prior to the development of this staff report.

Attachments

Attachment-1 Draft Revised Delegation of Authority By-law

Departmental Approval

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